

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY eg D.C.
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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

SEDLEY ALLEY,

Petitioner,

v.

RICKY BELL,

Respondent.

No. 97-3159-D/V

ORDER DIRECTING PETITIONER TO REPLY


Petitioner has filed a second amended motion requesting relief from judgment, as well as motions seeking discovery and a status conference. Respondent has answered, arguing that the Supreme Court's recent decision in Gonzalez v. Crosby, No. 04-6432, slip op. (June 23, 2005) forecloses the availability of Rule 60(b) relief from judgment for Petitioner, entitling the Respondent to summary disposition, and therefore renders a status conference unnecessary. The Court finds that its jurisdiction to consider the merits of Petitioner's request for relief from judgment rests upon an initial determination of whether Petitioner's motion is a "true" Rule 60(b) motion for relief or a prohibited second or successive habeas application. To that end, the Court orders that Petitioner reply to Respondent's Response In Opposition to Petitioner's Motion For Relief From Judgment, specifically addressing whether the Supreme Court's decision in Gonzalez makes clear that all or any part of Petitioner's motion for relief is, in effect, a prohibited

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second or successive habeas application, or whether the Court may proceed to consider the merits of Petitioner's motion for relief.

IT IS THEREFORE ORDERED that Petitioner submit his reply by July 26, 2005.

IT IS SO ORDERED this 11th day of July, 2005.


BERNICE BOUIE DONALD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 163 in case 2:97-CV-03159 was distributed by fax, mail, or direct printing on July 13, 2005 to the parties listed.

Sedley Alley
RMSF-Nashville
Unit II
7475 Cockrill Bend Industrial Road
Nashville, TN 37209--101

Joseph F. Whalen
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202--020

Glenn R. Pruden
OFFICE OF THE ATTORNEY GENERAL
425 Fifth Ave., N.
Nashville, TN 37243--049

Henry Alan Martin
OFFICE OF THE FEDERAL PUBLIC DEFENDER
810 Broadway
Ste. 200
Nashville, TN 37203

Robert L. Hutton
GLANKLER BROWN, PLLC
One Commerce Square
Suite 1700
Memphis, TN 38103

Paul R. Bottei
OFFICE OF THE FEDERAL PUBLIC DEFENDER
810 Broadway
Ste. 200
Nashville, TN 37203

Honorable Bernice Donald
US DISTRICT COURT